

FALSE ARREST CASE TO APPEALS COURT

McCauley Loses \$100,000 Verdict by Appellate Division Decision.

TAKEN FOR BANK CROOK
Locked Up as "Christmas" Keough on Complaint of Jewelry Firms.

Attorneys for Alexander P. McCauley, Toronto mining engineer, who is fighting to clear his reputation of any stigma that may have become attached to it as a result of his arrest more than two years ago in the belief he was the notorious "Christmas" Keough, bank swindler, announced yesterday that the action for damages brought against Theodore B. Starr, Inc., the jewelry concern, will be carried to the Court of Appeals. The Appellate Division of the Supreme Court by a vote of 3 to 2 has reversed a verdict for \$100,000 which Mr. McCauley obtained against the jewelry concern.

"It is clearly a case for the court of last resort," Terence J. McManus of the law firm of Clegg, Bonyage, McManus & Ernst, attorneys for Mr. McCauley, declared last night. "Our view of the Appellate Division's decision is that it is revolutionary and upsets all existing law on the subject. Mr. McCauley agrees with us, so there is no other course open but for us to take the case to the Court of Appeals."

Responsibility for the arrest of Mr. McCauley technically was placed on the shoulders of the police and the District Attorney's office by the prevailing opinion of Justice Walter Lloyd Smith, in which Justice Clarke, the presiding Justice, and Justice Greenbaum concurred. They conceded that Mr. McCauley was innocent of the serious charges preferred against him, but held that the jewelry concern was not solely responsible for his indictment.

Cost Small Fortune.

The legal battle to clear the reputation of Mr. McCauley, which now is entering the last stages, runs over a period of more than two years and cost the engineer a small fortune. Mr. McCauley protested his innocence when arrested in St. Louis in the autumn of 1918, but did not succeed in convincing the authorities that a mistake had been made until it was learned that the actual "Christmas" Keough was arrested in Chicago for passing forged checks drawn on a Canadian bank. The swindler now is in Joliet penitentiary.

Following the dismissal of the indictment that had been found against him, Mr. McCauley began actions against two St. Louis and three New York stores which had been involved in the testimony given against him. Aside from Theodore B. Starr, Inc., the firms here were Brooks Brothers and Lambert Brothers. Swan, Moore & Danforth, attorneys for the Starr jewelry concern, retained Martin W. Littleton as counsel. The attorneys for Mr. McCauley decided it would be best to have the Starr case brought to trial first. Justice Tierney presided at the trial which resulted in the verdict for the engineer.

Claims of Defence.

During the trial the attorneys for the defence held that at all times the jewelry concern merely followed the instructions of the police and the District Attorney's office. The police picture of "Christmas" Keough submitted

NO FIRES, SO FIREMEN FIGHT LYNBROOK VILLAGE RULERS

They Refuse to Stand for Law That They Shall Not Appear in Regalia at Tournaments Outside Town Limits.

It is conceivable that the Court of Appeals, in the final instance, may be called on to unwind the law in the case of Lynbrook, L. I., where a nice question of authority has arisen between the volunteer fire department and the village trustees.

The trustees have just passed an ordinance prohibiting any part of the fire apparatus contained within the village from being taken out of the village limits. This, according to the best informed of volunteer fire opinion, is ultra vires the powers of the trustees and in contravention of the Constitution of the United States, as it relates to ownership in personal property. Put more succinctly, the firemen maintain that the engines and the engine houses, the blue flannel shirts, the hip boots and the trumpets and every other chatel and thing appertaining to the business of fires within said village is their outright property, and that if the trustees attempt to limit their use of it they will have the law on them.

Hence Sanford A. Davison, counsel to the firemen—who in all the proud history of fire fighting in Lynbrook have never, upon any occasion at any fire, lost a cellar or a chimney—and Charles

for identification had been taken twenty years ago, it was testified, and clerks of the jewelry concern said it "bore some resemblance" to the swindler who had passed over the worthless checks to them. Regarding the arrest and indictment of Mr. McCauley, Justice Smith has said:

"The criminal authorities of the city had taken the matter in charge, and with the presumption that they would act within the law and upon reasonable cause this defendant cannot be held liable for any act of those criminal authorities which was not aided, instigated or abetted by the defendant."

It is upon this paragraph in the Appellate Division's decision that the legal battle before the Court of Appeals will centre.

Another part of Justice Smith's opinion follows:

"To hold the defendant liable upon this record for the damages which the plaintiff has sustained would, in my judgment, markedly discourage attempted prosecution for crimes committed, and would so imperil the salutary enforcement of the criminal law as to constitute a public menace."

**THROWN FROM HORSE;
ASKS \$30,000 DAMAGES**
Stenographer Sues Riding School for Injuries.

Miss Anna M. Savage began yesterday in the Supreme Court an action to recover \$30,000 damages from Oscar and Anna Hutter for injuries received in being thrown from a horse. The Hutters conduct a riding school near Central Park and give lessons to pupils.

Miss Savage was a pupil at the school on November 4. She charges the Hutters with negligence and carelessly directing her to ride Nabob, a spirited horse, despite the fact that she was an inexperienced rider. The horse ran away and threw her off. She sustained a fracture of one of her legs and other injuries.

As a result of her injuries, Miss Savage says, she has been prevented from pursuing her work as a stenographer and secretary. She formerly earned \$300 a year at this occupation.

GUARD BRITISH FLAG AGAINST THE IRISH

Detectives on Duty at Biltmore Dinner Given by Loyalty League.

ADMIRAL SIMS A SPEAKER
Tells Hearers if Not Prepared U. S. Will Be Defeated and Pay Indemnity.

A few detectives were sprinkled here and there about the entrance to the large ballroom of the Hotel Biltmore when the Allied Loyalty League gave a luncheon yesterday at which British flags, together with those of the other allied nations, were used in decorating the gallery and walls. Officers of the league, which protested against the tearing down of the British flag by the Irish recently at the Union Club and which voiced disapproval of the act of Mayor Hylan in presenting the freedom of the city to Mrs. MacSwiney, feared that an act of reprisal might be attempted. But the programme was carried through without interruption.

**SUES MAN FOR MONEY
ADVANCED FOR DIVORCE**
Says He Married Another After Obtaining Decree.

Mrs. Ada Tyler, former wife of a Montana business man, has sued Robert E. Ward, a merchant of this city, for money which she says she advanced him to get a divorce from his former wife in order that he might marry her. She charges that he took the money, obtained a divorce and then married another woman.

Through her attorney, Howard Campbell, Jr., Mrs. Tyler is suing Ward for \$4,250. She says she did not know that he already was a married man when she first agreed to become his wife. She waited from December 15, 1918, until April for the wedding. Then Ward informed her that he had a wife from whom he was separated. He assured her that he would get a divorce if he had the funds.

Mrs. Tyler says that she supplied the money upon Ward's promise to repay her. About \$700 was used for "shadowing" Ward's former wife. Ward obtained his divorce decree in Reno on August 12, 1920. Instead of marrying Mrs. Tyler he returned to this city and it is alleged, married a Miss Gladys Claypole.

Attorney Campbell declined to discuss the case but did say that his client has no intention of suing Ward for breach of promise of marriage.

GIRL ASKS \$25,000 DAMAGES.

Harold W. Holcomb, a dealer in automobile supplies of 300 Broadway, is named defendant in an action begun yesterday in the Bronx Supreme Court by Miss Jeanne A. Taylor of 471 East 181st street to recover damages for injuries she claims she received in an automobile accident.

Miss Taylor says she was a passenger in Mr. Holcomb's car when it was in collision with another automobile in Pelham Parkway road, July 23 last. She claims that as a result of the injuries she was disabled for life and asks that \$25,000 damages be assessed against Mr. Holcomb.

Trinity Church, who preceded Rear Admiral Sims on the programme, said: "We love Admiral Sims because he represents the best in the United States Navy. We love him for his fearless recognition of the debt we all owe to the British fleet during the war. We love him also for his fine old American habit of telling the truth."

In his speech Dr. Manning arraigned those Americans who give allegiance to another flag. "What we want to-day," he said, "is Americans who put the American flag first. There is a special tie which relates and binds us to that great country Great Britain. We stand by the same ideals by which she stands, not because they are Anglo-Saxon, but because they are the highest in the world."

Admiral Sims said that when he was in England with the United States fleet he thought he was the commander, but when he returned he was officially informed that he was a liaison officer. "If you ever get into trouble again, and you are not ready in a month or in two months you are going to be defeated and pay an indemnity," he warned. "Now I don't want to pretend that all of our allies are the loveliest things in the world. Take the Britishers, for example. Their manners are very little better than ours. The only people that are really polite are the French."

"We liked the British during the war because they believed in personal liberty. It will be a long time before there

is prohibition in England. Seriously, it seems to me that if you people could get along with those on the other side during the war you should get along with them here. Failure to do so means a certain amount of danger. Pin pricks may develop into infection resulting from the poison of propaganda. The world won't stand for another war. The world can't stand another war. And if we don't keep on nourishing the sentiment that was aroused for the Allies during the war we are going to get into trouble. Personally, I believe in the initiative being taken by the English speaking people."

James M. Beck, president of the league; George Wharton Pepper of Philadelphia and Maurice Casanova, Minister Plenipotentiary and Director General of French Services in the United States, were the other speakers. Mr. Casanova told of the speed with which France has been rehabilitated and of the high taxes the French pay—higher, he said, than any other nation in the world. "Seventy-five per cent. of our devastation has been repaired. We did not expect such a speedy recovery," he said. "Anything said about the Frenchman not paying his debts is nonsense and a lie."

Mrs. Douglas Robinson, Mrs. J. Borden Harriman, Mrs. Francis Rogers, Mrs. Charles H. Dison, Mrs. Walter Marnard, Miss Maude Wetmore, Robert Grier Cook, Herbert L. Sattelle, the Rev. Dr. Charles L. Slattery and Mrs. Coffin Van Rensselaer were among those present.

DENTIST DENIES HE HURLS EGGS AT WIFE

Also That He Married to Evade War Service.

Dr. Samuel Ferber, dentist, of 2 East 114th street told Supreme Court Justice Burr yesterday that he had never thrown eggs at his wife, Edith Hyman.

Farber. He also denied her assertion that he had married her to avoid the draft during the war.

Mrs. Farber is suing for a decree of separation on the ground of her husband's cruelty. The charge that he once scrambled some eggs upon her and that he had struck her are allegations in her complaint. Pending the trial Justice Burr denied her plea for alimony, as it appeared that she had \$500 in Liberty bonds.

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